

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MARYLAND

SALVATORE SPINNATO *

PETITIONER, PRO SE *

V. *

J.P. GALLEY, ET. AL. *

RESPONDENTS *

FILED ENTERED
LOGGED RECEIVED

DEC 13 2005

CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND DEPUTY

BY

JFM02-4213

MOTION TO COMPEL THE OFFICE OF THE ATTORNEY GENERAL TO SERVE THIS PETITIONER WITH A COPY OF A RESPONSE TO A MOTION THAT WAS FILED IN THE DISTRICT COURT ON APRIL 30, 2004 BUT WAS NEVER SERVED ON THIS PETITIONER AS THEY ARE REQUIRED TO DO

This petitioner avers that I asked my Sister to purchase a copy of the Federal Docket Sheet in the above case so that I could review everything that was filed in my habeas petition to this Court.

After receiving it I noticed there was a notation by the Clerk of Court on 04/30/2004 at No. 42, and was listed as RESPONSE to Motion re (41).

This petitioner is averring to this Court that at no time was I ever served with a RESPONSE by the Attorney General, and therefore did not know that there was a REPLY due by 05/14/2005.

The Attorney General Office is very much aware of the fact that they are required by the Federal Rules to serve all habeas petitioner's with a copy of everything that they file and to not do so is prejudicial to this petitioner because it prevented me from filing a reply which I would have done had I known.

In order for me to explain how I feel I was prejudiced by the Attorney General' failure to serve me with a copy of their RESPONSE, I am asking for the Court to look at the notation made by the Clerk's Office on 02/09/2005. That notation indicates at NO. 61 that I was denied an Evidentiary hearing without prejudice

I have no way of knowing for sure, but I am assuming that the Court could have felt that I did not intend to reply. I realize that I need to explain myself more clearly so I have attached photocopies that I believe will help demonstrate what I am trying to explain.

1. Is a copy of page 5 of the court docket sheet and indicates that on 04/30/2004 at Number 42 there is a notation that the Attorney General filed a RESPONSE on 4/30/2004 and that a REPLY was due by 5/14/2004.

2. Is a copy of a request form to the Mail room officer, and indicates that I did not receive any legal mail during 4/30/2004 thru 5/02/2004.

PLEASE NOTE that all inmates are required to sign for any and all legal mail, and that the officer makes a notation who sent the mail, and on what date it was received, and signed for by the inmate.

What is most disturbing is that I did not receive mail from the Clerk's office as well alerting me to the fact that I had two weeks to file a reply.

THEREFORE I am respectfully requesting for this Court to:

1. **ORDER** the Attorney General's Office to serve me with a copy of their **RESPONSE** of 04/30/2004.
2. **ORDER** that I be allowed two weeks to file a REPLY to the RESPONSE

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a copy of the Attached Motion to Compel the Attorney General to serve me with a Copy of a Motion that was filed on April 30, 2004 to Edward J. Kelley, Assistant Attorney General, 200 Saint Paul Street, Baltimore Maryland 21202 on this 9th. day of December 2005.

A handwritten signature in black ink, appearing to read "Salvatore Spinnato", is written over the printed name.

Salvatore Spinnato, 272-280
13800 McMullen Hwy.
Cumberland, Md. 21502

			(hml, Deputy Clerk) (Entered: 01/27/2004)
02/02/2004 ✓	34		ORDER granting [33] Motion of Petitioner for Extension of Time to File a Response/Reply Brief as to [30] Answer to Amended Petition for Writ of Habeas Corpus and Order To Show Cause to and including February 27, 2004. Responses due by 2/19/2004. Replies due by 2/17/2004. Signed by Judge J. Frederick Motz on 02/02/2004. (c/m 2/3/2004 cmh) (cmh, Deputy Clerk) (Entered: 02/03/2004)
02/25/2004 ✓	35		MOTION for Extension of Time by Salvatore Spinnato. (bmh, Deputy Clerk) (Entered: 02/26/2004) ME 4
02/27/2004 ✓	36		ORDER granting [35] Motion of petitioner for Extension of Time and extending time to 3/29/04. Signed by Judge J. Frederick Motz on 2/27/04. (c/m 2/27/04 bh) (bmh, Deputy Clerk) (Entered: 02/27/2004)
02/27/2004 ✓	37		Correspondence by Plaintiff Salvatore Spinnato. (cmh, Deputy Clerk) (Entered: 03/02/2004)
03/03/2004	38	?	MARGINAL ORDER granting request of plaintiff [37] for Extension of Time. Signed by Judge J. Frederick Motz on 3/3/04. (c/m 3/3/04 bh) (See Pleading #37)(bmh, Deputy Clerk) (Entered: 03/03/2004) MISSING
04/08/2004 ✓	39		Correspondence from plaintiff re: List of Exhibits from the AG's Office. (bmh, Deputy Clerk) (Entered: 04/08/2004)
04/13/2004	40	♀	FINAL SUMMARY in Support of His [1] Petition for Writ of Habeas Corpus and His [25] Request For an Evidentiary Hearing, and Attachments by Salvatore Spinnato. (cmh, Deputy Clerk) (Entered: 04/14/2004)
04/13/2004 ✓	41	♀	MOTION For An Evidentiary Hearing, and Exhibits #1 through #51 by Salvatore Spinnato. Responses due by 4/30/2004. (cmh, Deputy Clerk) (Entered: 04/14/2004)
04/30/2004 ?	42	?	RESPONSE to Motion re [41] MOTION of Petitioner For An Evidentiary Hearing filed by J. P. Galley, The Attorney General For The State of Maryland. Replies due by 5/14/2004. (cmh, Deputy Clerk) (Entered: 05/03/2004) ???
06/07/2004 ✓	43	✱	ORDER DIRECTING Respondents to provide a copy of the above-noted transcript(s) as supplemental exhibits; and HOLDING IN ABEYANCE all pending motions pending receipt of the supplemental exhibits. Signed by Judge J. Frederick Motz on 06/07/2004. (c/m 6/7/2004 cmh)(cmh, Deputy Clerk) (Entered: 06/07/2004) ✓
06/23/2004 ✓	44		TRANSCRIPT of Proceedings held in the Circuit Court for Baltimore County, MD on 2/1/01 before Judge Robert E. Cadigan. Court Reporter: Patricia A. Cirasole. (Filed Separately)(bmh, Deputy Clerk) (Entered: 06/24/2004)
07/06/2004 ✓	45	♀	Request to Order the State Court to Provide This Pro Se Petitioner With a Copy of the Post Conviction Hearing Held on Feb. 01, 2001.(bmh, Deputy Clerk) (Entered: 07/15/2004)

WESTERN CORRECTIONAL INSTITUTION

Inmate Requests
Please print clearlyDATE November 15, 2005(Circle One): Warden
Asst. Warden
Security Chief
Shift Commander
Social Worker
Other _____Commitment
Mail Room
Psychology
Unit Manager
EducationCase Manager
Finance Business Office
Administrative Remedy Coordinator
Chaplain
Addiction CounselorInmate's Name SALVATORE SPINNAIO DOC # 272-280 H.U. Cell Location 6-B-39 Job Assignment SANITATIONREQUEST: CAN YOU PLEASE TELL ME IF I RECEIVED
ANY LEGAL MAIL AT ALL FROM THE OFFICE OF
THE ATTORNEY GENERAL BETWEEN THE DATES OF
04-30-2004 THROUGH 05-02-2004. THANK YOU FOR
YOUR REPLY. THIS INFORMATION IS NEEDED BY ME
FOR THE UNITED STATES DISTRICT COURT IN
BAITIMORE.

Thank You

Salvatore Spinnio

DO NOT WRITE BELOW THIS LINE

REFERRED TO _____ FOR _____

OFFICIAL (Signature) _____ DATE: _____

FINAL DISPOSITION AND/OR RESPONSE TO INMATE: _____

According to the Legal Log Books, you
received no legal mail for the above
dates.

Official (Signature) _____

K. P. MillerDate: 11-17-05